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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,281	02/26/2002	Lawrence Green	PDI-26	5348

7590 06/23/2003

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[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3761

DATE MAILED: 06/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,281	GREEN ET.AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Teena K Mitchell	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 February 2002.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6, 12, 14, 17, 18 and 20 is/are rejected.

7) Claim(s) 7-11, 13, 15, 16 and 19 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Fan opening 109. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 9 is objected to because of the following informalities: In line 2, "...thereat..." the examiner is uncertain if this is a typographical error. Correction is required.

### ***Specification***

The abstract of the disclosure is objected to because the Abstract is over 150 words (note CFR 1.72). Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

Page 13, lines 6 and 10, "...LED 151..." should be amended to read --LED 152--.

Page 14, line 18, "...sensing resistor 603..." should be amended to read --  
sensing resistor 602--.

Page 15, line 15, "...151..." should be amended to read --152--.

Page 15, line 19, "...152..." should be amended to read --151--.

Page 15, line 23, "...battery 650..." should be amended to read --battery 600--.

Correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 12-16, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 14, and 18 recites the limitation "...said air flow monitoring system..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 12, lines 4 and 5, "...a positioning magnet mounted on said arm and adapted to interact with said positioning magnet to locate said arm..." is indefinite; it is unclear how the positioning magnet is adapted to interact with the positioning magnet (could it be that the positioning magnet is adapted to interact with the reference magnet?).

Claim 15 recites the limitation "...said current sensing means..." in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 3, 5, 6, 17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Diaz et.al. (6,481,019).**

Diaz in an air flow control system discloses:

- a lightweight headgear structure (12),
- a fan mounted to said headgear structure (50) to generate air flow around said headgear structure,
- air flow monitoring means mounted to said headgear structure to monitor the air flow adjacent to said headgear structure (Col. 12, lines 11-65).

With respect to claim 2, Diaz discloses a power supply connected to supply power to said fan (70).

With respect to claim 3, Diaz discloses wherein said airflow monitoring means is a mechanical apparatus (Col. 12, lines 55-65).

With respect to claim 5, Diaz discloses wherein said power supply comprises a battery (Col. 7, lines 8-20).

With respect to claim 6, Diaz discloses a shroud adapted for covering said headgear structure (10).

With respect to claim 17, Diaz discloses a voltage detect circuit (118) connected to a power supply (70) to detect the output level therefrom (Col. 12, lines 11-38).

With respect to claim 20, Diaz discloses a battery voltage monitoring means (118) to monitor the voltage level produced by said battery.

***Allowable Subject Matter***

Claims 4, 12, 14, and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 7-11, 13, 15, 16, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The overall combination of the air flow control system of claim 1 wherein said air flow monitoring system is electric; first indicia means connected with said air flow monitoring means and is a LED; second indicia means connected to said power supply to provide an indication of a predetermined operating condition and being an LED; pivotally mounted arm which is selectively positioned by an air flow around said headgear structure; a reference magnet mounted to said headgear structure adjacent to said arm and a positioning magnet; a Hall-effect device mounted on said headgear structure and a sensing magnet mounted on said arm to selectively alter the operation

of said Hall-effect device as a function of said arm; and also the limitations of claims 14-16, 18 and 19 are neither anticipated nor rendered obvious by the prior art of record.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The balance of art is cited to show lightweight headgear airflow control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena K Mitchell whose telephone number is (703) 308-4016. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
Teena Mitchell  
Patent Examiner  
Art Unit 3761  
June 16, 2003